

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION

UNITED STATES, *et al.*,

*Plaintiffs,*

vs.

GOOGLE LLC,

*Defendant.*

No: 1:23-cv-00108-LMB-JFA

**JOINT MOTION TO COMPLETE FACT DEPOSITIONS  
AFTER THE CUT-OFF OF FACT DISCOVERY**

PURSUANT TO Rule 16(b)(4) of the Federal Rules of Civil Procedure and Local Civil Rule 16(B), Plaintiffs and Defendant jointly move to modify the scheduling order (Docket no. 1428) regarding the completion of the seven fact depositions listed below. The grounds for granting this relief are as follows:

1. The court rules provide that a scheduling order “may be modified only for good cause and with the judge’s consent.” Fed. R. Civ. P. 16(b)(4); *accord* E.D. Va. Civ. R. 16(B) (“good cause” required to modify schedule). Generally, a showing of “good cause” to modify the scheduling order requires showing “that the deadlines cannot reasonably be met despite the party’s diligence.” *Cook v. Howard*, 484 Fed. Appx. 805, 815 (4th Cir. 2012) (unpublished *per curiam*) (citations omitted); *accord* Fed. R. Civ. P. 16, 1983 Adv. Comm. Notes (the movant must show that the current deadlines “cannot reasonably be met despite the diligence of the party seeking” the modification). Moreover, the Court must consider, *inter alia*, “the length of delay and its potential impact on judicial proceedings.” *Roe v. Howard*, No. 1:16-cv-562, 2017 U.S. Dist. LEXIS

187258, \*1-2 (E.D. Va. June 30, 2017). The parties submit that good cause exists to extend the fact discovery cut-off to allow completion of the seven depositions now at issue.

2. The parties have identified these seven individuals as having potential testimony that may be used at the remedies trial. The parties diligently attempted to take these depositions before the fact discovery cut-off, June 30, 2025. For reasons outside the control of the parties, these deponents are not reasonably available to sit for their depositions before June 30.

3. The parties have met and conferred with these deponents and each other to obtain mutually available dates for these depositions, which are shown in the chart below:

<i>Deponent</i>	<i>Date</i>
Scott Sheffer (Google)	July 1, 2025
Stephanie Layser (third-party)	July 1, 2025
Andrew Casale (third-party)	July 2, 2025
Noam Wolf (Google)	July 18, 2025
Jeff Green (third-party)	July 25, 2025
Michael Racic (third-party)	July 28, 2025
Rajeev Goel (third-party)	August 19, 2025

4. The completion of these depositions after the fact discovery cut-off will not interfere with expert discovery, disrupt the remainder of the schedule, or delay the remedies trial.<sup>1</sup>

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<sup>1</sup> The parties have further agreed that, on or before July 21, each side may add up to three additional fact witnesses to their preliminary fact witness lists, and that each side would be permitted to depose up to three of these additional fact witnesses added to the parties' lists. If these depositions are needed, the parties anticipate moving the court for leave to take them. The completion of those depositions will not interfere with expert discovery, disrupt the remainder of the schedule, or delay the remedies trial.

WHEREFORE, the parties respectfully request that the Court grant this relief. A proposed order is submitted herewith.

**WAVIER OF ORAL ARGUMENT:**

The parties waive oral argument on this procedural motion.

**JOINTLY SUBMITTED** this 18th day of June 2025:

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